# LODI CITY COUNCIL REGULAR CITY COUNCIL MEETING CARNEGIE FORUM, 305 WEST PINE STREET WEDNESDAY, OCTOBER 16, 2002

## C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of October 16, 2002 was called to order by Mayor Pennino at 6:18 p.m.

Present: Council Members - Hitchcock, Howard, Land, and Mayor Pennino

Absent: Council Members - Nakanishi

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

#### C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual litigation: Government Code §54956.9(a); one case; <u>City of Lodi vs. Williams-Anderson, et al.</u>, San Joaquin County Superior Court Case No. CV 426433

#### C-3 ADJOURN TO CLOSED SESSION

At 6:18 p.m., Mayor Pennino adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 6:40 p.m.

## C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:02 p.m., Mayor Pennino reconvened the City Council meeting, and City Attorney Hays disclosed the following action.

In regard to Item C-2 (a), there was no reportable action taken by the City Council.

#### A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 16, 2002 was called to order by Mayor Pennino at 7:02 p.m.

Present: Council Members - Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members - None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

# B. <u>INVOCATION</u>

The invocation was given by Natalie Reyes, representative of the Baha'i.

#### C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pennino.

# D. AWARDS / PROCLAMATIONS / PRESENTATIONS

- D-1 (a) Mayor Pennino presented the Community Improvement Award to Community Improvement Manager Joseph Wood on behalf of Anthony and Denise Mora in recognition of the improvements they made to the property located at 405 ½ E. Elm Street.
- D-2 (a) Mayor Pennino presented a proclamation to Lodian and breast cancer survivor, Beverly Lacy, and Marsha Fitzgerald, representing the American Cancer Society, in honor of the October 20, 2002 6<sup>th</sup> annual Making Strides Against Breast Cancer walk.
- D-2 (b) Mayor Pennino presented a proclamation to Tamma Adamek, Community Chairperson, representing the Women's Center of San Joaquin, proclaiming the month of October 2002 as "Domestic Violence Awareness Month" in the City of Lodi.

- D-2 (c) Mayor Pennino presented a proclamation to Tea Silvestre, City of Lodi Arts Coordinator, proclaiming the month of October 2002 as "National Arts and Humanities Month" in the City of Lodi.
- ADDED Mayor Pennino presented a proclamation to Paula Beck, President of the Business and Professional Women's Association, proclaiming October 14 to 18, 2002 as National Business and Professional Women's Week in the City of Lodi.
- D-3 (a) Mayor Pennino presented the TOPPS (Targeted Opportunities to Prevention Pollution in San Joaquin County) Environmental Excellence Award for 2001 to Kathy Grant and student representatives of the City of Lodi's "Storm Drain Detective" Program.
- D-3 (b) Katie Wagenman, member of the Greater Lodi Area Youth Commission, acknowledged the Teen of the Month, Meghan Cook from Lodi High School, and reported on the commission's activities and accomplishments.
- D-3 (c) John Stroh, Manager of the San Joaquin County Mosquito & Vector Control District, reported that the West Nile Virus is a mosquito-borne disease that has the ability to migrate rapidly. It is anticipated that the virus will reach San Joaquin County next year. The District has worked with the San Joaquin County Agricultural Commissioner in developing a response plan for the anticipated arrival of Africanized honey bees migrating north from southern California. Measure R, which is on the November 5 ballot, is the District's proposed special tax designed on a per parcel basis for taxable parcels only. If approved by the voters it will be used for continued operations with regard to District services, as well as enhancing the surveillance and control programs.

Council Member Land noted that he spent an hour with Jack Fiori (Lodi's appointed representative to the District) discussing Measure R. Mr. Fiori also provided him with a copy of the District's budget. Most of the increase in the budget was due to liability and workers compensation insurance and the cost of chemicals. He voiced support for Measure R.

Mayor Pro Tempore Hitchcock stated that the tax only amounts to \$3.89 a year per parcel, which is a small amount for the benefits the District provides. She reported that the District has not had an increase in twenty years and suggested that the Mayor sign a letter on behalf of the Council in support of Measure R.

## E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Hitchcock, Land second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$6,083,607.77 and \$3,378,693.37.
- E-2 The minutes of September 4, 2002 (Regular Meeting), September 10, 2002 (Shirtsleeve Session), September 17, 2002 (Shirtsleeve Session), September 17, 2002 (Special Meeting), September 18, 2002 (Regular Meeting) <u>as amended</u>, September 24, 2002 (Shirtsleeve Session), September 24, 2002 (Special Meeting), October 1, 2002 (Shirtsleeve Session), October 1, 2002 (Special Meeting), October 2, 2002 (Regular Meeting), October 8, 2002 (Shirtsleeve Session), and October 8, 2002 (Special Meeting) were approved as written.
- E-3 Received the report of the sale of surplus vehicles.
- E-4 Approved of the disposal of surplus Motorola Minitor Pagers and Chargers.
- E-5 Approved specifications for 20,000 feet of #1/0 underground triplex conductor for the Electric Utility Department and authorized advertisement for bids.

- E-6 Approved the specifications for 20,000 feet of #2/0 jacketed 15kV concentric neutral underground electrical cable and authorized advertisement for bids.
- E-7 Approved the preparation and distribution of a request for proposals for security services at Hutchins Street Square and authorized advertisement for bids.
- E-8 Adopted Resolution No. 2002-197 awarding the bid for the purchase of 25 Holophane *Prismasphere*® globe-style luminaires to the low bidder, Wille Electric Supply Company, of Stockton, in the amount of \$13,499.73.
- E-9 "Adopt resolution awarding the contract for installation of streetlights on Streetlight Completion Project Phase III to Clayborn Contracting Group, Inc. (\$662,259)" was removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.
- E-10 Accepted the improvements under the "Hale Park Court Resurfacing, 209 East Locust Street" contract.
- E-11 Accepted the improvements under the "California Army National Guard Building Retrofit Work, 333 North Washington Street" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's office.
- E-12 Accepted the improvements under contract for landscape and irrigation installation on the South Hutchins Street median.
- E-13 Accepted the improvements under the "Reroof Project, 100 East Pine Street (New Shanghai Building)" contract, for removal and installation of built-up and tile roofing, including gutter replacement.
- E-14 Adopted Resolution No. 2002-198 accepting the improvements under the "Asbestos Abatement, 100 East Pine Street" contract, and, in accordance with the Contract Change Order Policy, notification of change orders approved by the City Manager for this project, and appropriating \$20,880 additional funds for the project.
- E-15 Accepted the improvements under the "White Slough Control Building Reroof, 12751 North Thornton Road" contract, for the removal of the existing built-up roofing, and installation of new single-ply roof system.
- E-16 Adopted Resolution No. 2002-199 accepting the development improvements for Century Meadows Three, Unit No. 5, Tract No. 2976.
- E-17 Adopted Resolution No. 2002-200 accepting the development improvements for Arcadia Place, Tract No. 3147.
- E-18 Adopted Resolution No. 2002-201 accepting a portion of the development improvements for Tienda Place, Unit No. 1, Tract No. 3141.
- E-19 Approved the final map for Tienda Place, Unit No. 2, Tract No. 3198, and directed the City Manger and City Clerk to execute the Improvement Agreement and map on behalf of the City.
- E-20 Adopted Resolution No. 2002-202 approving the applications for two Transportation Planning Grants from the California Department of Transportation (Caltrans) for the Lodi Avenue Community Enhancement Project and the Central Avenue/Tokay Street Corridor Bike and Ped Circulation Enhancement Project and coordinating efforts to submit applications with the San Joaquin Council of Governments for Transit Grants from Caltrans; and adopted Resolution No. 2002-203 supporting the application for a REMOVE grant from the San Joaquin Valley Air Pollution Control District to construct a Park-and-Ride Lot.

- E-21 "Adopt resolution providing financial support for San Joaquin County's Recycling Market Development Zone (\$1,533 per year)" was *removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.*
- E-22 "Adopt resolution authorizing additional City participation in the cost of the Harney Lane Lift Station Project, and further appropriating funds for the project; and adopt resolution certifying the Negative Declaration as adequate environmental documentation for the Harney Lane Lift Station Project" was *removed from the Consent Calendar and discussed and acted upon under the Regular Calendar*.
- E-23 Authorized the City Manager to sign the service/maintenance agreement for current police computerized information systems with Data 911 and authorized payment using funds previously approved in the 2002-03 police budget (\$44,502.40).
- E-24 Adopted Resolution No. 2002-204 accepting funds from the State Citizens Option for Public Safety (COPS) Grant and accepting State Supplemental Law Enforcement Services Fund (AB 1584 COPS Frontline), estimated at \$117,987.
- E-25 Adopted Resolution No. 2002-205 approving the destruction of certain records retained by the Public Works Department.
- E-26 Approved year 2002 amendments to Conflict of Interest Code for publication and public comments (Government Code §87306.5).
- E-27 Adopted the following resolutions authorizing the City Manager to provide funding for the Public Benefit Programs shown below:
  - Resolution No. 2002-206 for Valley Industries Lighting Retrofit/Demand-side Management Project in the amount of \$39,794; and
  - Resolution No. 2002-207 for the Right Way/Old Farmers & Merchants Bank building Demand-side Management Project in the amount of \$7,619.83.
- E-28 Set public hearing for November 6, 2002 to consider the Planning Commission's recommendation of approval to the City Council for a General Plan Amendment and Prezoning for 1243, 1301, 1335, and 1477 East Harney Lane; the General Plan Amendment is from PR, Planned Residential to LDR, Low Density Residential, and the Prezoning from San Joaquin County AU-20 to R-2, Single Family Residential; the request also includes a recommendation that the City Council certify Negative Declaration ND-02-04 as adequate environmental documentation for the project and initiate annexation of the properties into the City.
- E-29 Set public hearing for November 6, 2002 to consider the Planning Commission's recommendation of approval to the City Council for an Annexation, General Plan Amendment, and Prezoning for 13814 Lower Sacramento Road and a four-acre portion of 302 East Highway 12; the General Plan Amendment for 13814 Lower Sacramento Road is from PR, Planned Residential to LDR, Low Density Residential, and the prezoning from R-VL (County), Residential Very Low Density to R-LD, Residential Low Density; the General Plan Amendment for 302 East Highway 12 is from PR, Planned Residential to PQP, Public/Quasi Public, and the prezoning from AU-20 (County), Agriculture-Urban Reserve to PUB, Public; the request also includes a recommendation that the City Council certify Negative Declaration ND-02-07 as adequate environmental documentation for this project.
- E-30 Set public hearing for November 6, 2002 to consider the appeal of Ann Cerney regarding the decision of the Planning Commission to approve a 33-unit low density residential Development Plan and recommend that Council: 1) certify Negative Declaration ND-02-05 as adequate environmental documentation for the project on 5.68 acres located at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road, and 2) adopt the 2002 Growth Management Allocations.

- E-31 Set public hearing for November 6, 2002 to consider adopting the 2001 California Building, Plumbing, Mechanical, Electrical, and Fire Codes.
- E-32 Adopted Resolution No. 2002-208 authorizing the City Manager to execute a contract with Lodi Tokay Rotary Club for the Lodi Kids' Night Out; and appropriated \$18,000 for the event.

## F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

 Tony Alegre, President of Boosters of Boys and Girls Sports (BOBS), commended the City for its part in the renovation at Zupo Field. He presented a check in the amount of \$8,000 to the City on behalf of the BOBS. He noted that the BOBS also donated over \$1,500 in services toward the Zupo Field project. He thanked the Mayor his work in providing programs for the youth of the community, and reported that 5,000 youth each month participate in sports programs.

Parks and Recreation Director Baltz reported that the BOBS is also considering replacing the scoreboard with a wireless system, which has a value of several thousand dollars. He acknowledged Mr. Alegre for providing trucks at no cost to the City for three days of work removing sod.

• Camille Green urged Council Members, City staff, and concerned citizens to attend a conference on October 19 in San Jose, which will cover the topic of California redevelopment agencies' waste of public money by the billions, destroyed neighborhoods, displaced homeowners, and the shutting down of small businesses. Sponsors of the conference are the Municipal Officials for Redevelopment Reform. She expressed concern about private meetings taking place between property owners that had protested the Redevelopment Plan and City staff who verbally promised funds from the Redevelopment Agency if they would no longer oppose the implementation of the Plan in Lodi. She viewed such an act as criminal and suggested that the matter be placed on a future Council agenda for discussion.

Mayor Pennino informed Ms. Green that the City Manager would be attending the conference on behalf of the City.

Council Member Land explained to Ms. Green that under the Redevelopment Plan 20% of the funds collected must be used for affordable housing. Staff was merely informing the property owners what was available to them.

• John Johnson thanked the City for the improvements to Zupo Field and the BOBS for its contribution. He hoped that the City would be able to find money in the budget to maintain the field. He asked: 1) how much has been allocated for the design of the proposed indoor sports center, the aquatics facility, and DeBenedetti Park; and 2) if the plans for these three projects were completed, could they be funded today or even within the next two years. He stated that if the answer to the second question is no, then as a taxpayer he would urge the Council to stop the design work, as there is no reason to spend \$2.5 million on design without knowing how to pay for the projects. He thought that plans for the pool were supposed to be on this Council agenda, but the item had been removed.

Mayor Pennino replied that the plans for the aquatics facility would be on the next Council agenda.

Council Member Howard responded that it would be a mistake to stop the design process because having project designs complete increases the likelihood of obtaining funding. She cited the current Library as an example. Although there was questionable funding on the project, the design phase proceeded, and when the State allocated monies to be used for libraries it gave priority to cities that had a design in progress. In addition, Parks and Recreation has been allocated funding from Proposition 12. In answer to Mr. Johnson's second question, she stated that if all three projects came before Council at the same time for construction next year it would not be feasible; however, planning to build them over a series of years is reasonable.

Mayor Pro Tempore Hitchcock shared Mr. Johnson's concerns, although she could also see the merits of moving ahead and having plans in place should funding become available. She asked Mr. Johnson if he believed the design work should be discontinued now because in several years there may be different needs, which could substantially change the plans.

Mr. Johnson used the analogy of someone designing a house without knowing how to pay for it, which he felt was illogical.

Mayor Pro Tempore Hitchcock commented that a recreation bond measure could be another avenue for funding the projects.

Mayor Pennino expressed his optimism that the projects will be built. He noted that according to a timeline spreadsheet he created, the projects progression continue to coincide with his projections.

Council Member Land recalled that financing the new police building was also uncertain initially; however, the design phase moved forward, funds were set aside in anticipation of debt financing, and an opportunity arose when the State had surplus funds, out of which the City was successful in obtaining \$4 million for development of the project. In addition, it had originally been estimated at \$25 million and through value engineering the project decreased to \$17 million.

In answer to Mr. Johnson's first question, Parks and Recreation Director Baltz reported the following:

- > \$574,536 has been allocated, appropriated, and authorized by Council for the design of DeBenedetti Park − \$246,180 has been expended to date and \$100,000 worth of invoices are anticipated to arrive soon;
- \$542,180 has been authorized and allocated for the design of the Aquatics Complex \$117,959 has been expended to date;
- \$1,029,329 has been authorized and allocated for the design of the Indoor Sports Center \$166,789 has been expended to date. In addition there have been some expenses associated with soil testing, public meetings, and property acquisition, which totals over \$123,000.

Council Member Howard noted that the project design percentage, generally between 6% to 9%, is part of the projected cost of the projects.

## G. PUBLIC HEARINGS

G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the continued Public Hearing to consider appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

Mayor Pennino announced that a letter had been received from Neumiller & Beardslee (filed) requesting that the subject public hearing be continued to the regular City Council meeting of December 18, 2002.

# **MOTION:**

Council Member Howard made a motion, Land second, to continue the public hearing to December 18, 2002 to consider appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

#### **DISCUSSION:**

At the request of Mayor Pro Tempore Hitchcock, Community Development Director Bartlam reported that the sale of Legends Unlimited is now in escrow and the business has closed its doors. The transfer of the alcoholic beverage license will be completed within 60 days, at which time the new owners will have the benefit of the license. Mr. Bartlam expected that by mid-December this appeal will be withdrawn because there will be new owners of the business. The conditions under which the Use Permit was granted a number of years ago will be transferred to the new owners.

#### VOTE:

The above motion carried by a unanimous vote.

G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider Reimbursement Agreement #RA-02-02 for public improvements constructed with the Sunwest Marketplace Shopping Center.

Sharon Welch, Senior Civil Engineer for Development Services, explained that the purpose for the public hearing is to consider a reimbursement agreement request from the developer of the Sunwest Marketplace Shopping Center. The improvement for which reimbursement has been requested includes underground utilities, water, sewer, and storm drain extensions across Lower Sacramento Road to serve the property to the west. Also a portion of the cost is for the installation of a traffic signal to provide traffic control at the driveway entrances to the Sunwest Marketplace Shopping Center, as well as the proposed Vintners Square Shopping Center on the west. The Sunwest project also built out the intersection at Kettleman Lane and Lower Sacramento Road to its ultimate configuration. In conjunction with the intersection work, as well as the traffic signal to the north, some roadway widening on the west side of Lower Sacramento Road and the north and south sides of Kettleman Lane was required to complete the project. Affected property owners have been notified and no responses were received.

# Hearing Opened to the Public

None.

Public Portion of Hearing Closed

# MOTION / VOTE:

The City Council, on motion of Council Member Nakanishi, Land second, unanimously approved the Reimbursement Agreement #RA-02-02 for public improvements in Lower Sacramento Road and Kettleman Lane, and associated public utilities constructed with the Sunwest Marketplace shopping center.

#### **RECESS**

At 8:15 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 8:30 p.m.

## G. PUBLIC HEARINGS (Continued)

G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider electric rate changes for all classes excluding Residential SHARE Program and Residential Medical Rider due to California Independent System Operator (CAISO) charges.

City Manager Flynn explained that the action requested under this item is to introduce the ordinance, which if approved, will come back to Council for adoption on November 6. He reported that staff has been working on this matter for three months looking at all options

and ways to reduce costs of the Utility; however, there have been significant increases associated with power. He stated that Electric Utility Director Vallow and his staff have done an outstanding job to ensure that citizens of Lodi get the best rates possible.

Mr. Vallow explained that electric rates need to be restructured to meet the base rate change of approximately 4.6%, which is primarily due to increased transmission costs. The Utility now goes through the California Independent System Operator (CAISO) for transmission services. He stated that the Market Cost Adjustment (MCA) is also being restructured and the majority of customers will see a rate reduction in the next six months. The action requested under this item is critical to an upcoming bond transaction that is intended to save a considerable amount of money. He stated that most fixed-income seniors will be eligible for an additional discount of 5%. Most commercial rates will not increase this fiscal year. The largest customer's rates may increase up to 10%. Mr. Vallow reported the Utility has cut its operating costs for the third year in a row and are operating with two crews, rather than the four budgeted. Management staffing is 30% lower than budgeted.

There are two components to rates: 1) base rates, which cover ordinary recurring utility costs, and 2) the MCA, which covers extraordinary costs associated with bulk power purchases. Base rates need to increase primarily due to the CAISO. The MCA is decreasing to partially offset the base rate increase. The MCA change will be brought back to Council at the time of final action on the rate ordinance. The savings from the Calpine contract restructuring has already been budgeted, so the magnitude of the rate increase is not as great as it otherwise would have been. He reported that the new transmission costs are \$2 million more annually than the Utility had paid before. The initiation fee is \$1.5 million this year. Residential customers are consuming 34% of the electricity and paying 40% of the cost. Small and medium commercial businesses are consuming 35% of the electricity and paying 39% of the cost, while larger businesses are consuming 29% of the energy and paying 19% of the cost.

Mr. Vallow reported that over a period of two months the Home Comfort Discount program returned \$340,000 back to rate payers. Included in the proposal before Council is a rate reduction for 62% of customers from zero to 2%. Individuals 65 years or older on fixed incomes of \$45,000 or less a year qualify for an additional 5% discount. There will be no change in rates for small to medium customers. Rates for G-2 and large industrial customers will increase 10%. Mr. Vallow stated that Lodi's electric rates continue to be substantially below the PG&E benchmark.

In answer to Council Member Howard, Mr. Vallow stated that contract customers include Apache Plastics, Fairmont Signs, Cottage Bakery, and Lodi Memorial Hospital. The Utility has extended contract rates in the past to businesses that were expanding. He estimated that the number of customers taking advantage of low-income programs has doubled and it represents approximately 1.5% of total revenue.

Boris Prokop, consultant from Borismetrics, added that in fiscal year 2002 the various discounts for medical rider income, etc. totaled \$400,000 in revenue, while the overall revenue from the rest of the residential customers was approximately \$15 million.

In reply to Mayor Pro Tempore Hitchcock, Mr. Vallow stated that the proposed rate increase should recover \$1.7 million annually.

Mayor Pro Tempore Hitchcock stated that the in-lieu utility tax transfer to the general fund had been projected at \$4 million a year since 1994. Since then it has increased to \$5.5 million. She pointed out that there would be less of a rate increase needed if the extra \$1.5 million was not being transferred and expressed support for keeping the in-lieu utility tax transfer at a flat \$4 million a year.

Mayor Pennino suggested that the in-lieu utility tax transfer policy be considered during the 2003-05 budget discussions.

Council Member Nakanishi concurred with Ms. Hitchcock noting that, in essence, the City is receiving dividends from the Utility of \$1.8 million a quarter. He expressed opposition to rate increases and suggested that the Utility decrease the in-lieu transfer and cut other costs such as the \$4 million street light program and bring a revised proposal back to Council at its next meeting.

Mr. Vallow replied that many programs, such as the street light project, are fully funded with capital dollars in an escrow account. He emphasized that the rate proposal will not affect 80% of the Utility's customers.

Council Member Land commented that the State did not handle the electric crisis in an appropriate manner and they are forcing the City to be part of the CAISO. PG&E owes Lodi millions of dollars through its bankruptcy and left the City without any choice other than to raise rates. He expressed support for considering an in-lieu transfer policy change and suggested decreasing the percentage from 12% to 11% for two years. In addition, he stated that Electric Utility should eliminate the practice of sponsorships and advertising in the newspaper. He asked what effect it would have on the re-issuance of the bond if Council did not approve the rate increase proposal.

Mr. Vallow replied that it is beneficial to show rating agencies that the City is making concerted efforts to cover costs. Not approving the rate increase proposal could result in \$250,000 to \$500,000 a year in additional costs.

Mayor Pennino stated that he spent a great deal of time with staff reviewing the rate increase proposal and he was convinced that it was needed. He agreed that the in-lieu transfer policy should be revisited and suggested that Council direct the City Manager to determine the impact a decrease would make on the general fund and bring back his findings to Council, noting that it could be considered immediately, as well as during the 2003-05 budget discussions. He recalled that Council voted 3-2 on January 2, 2002, (Pennino and Hitchcock dissenting), to make the \$900,000 in-lieu transfer to the general fund. He reported that the transfer has never been made, and it needs to occur as was voted on.

In response to Council Member Land's earlier comments, City Manager Flynn reminded the Council and public that PG&E is a very important utility to the State. They provide Lodi's gas services and do an outstanding job. He stated that part of the reason it is in financial difficulty is due to Public Utility Commission policies, which forced it to sell power at a cost less than what it was buying it for. PG&E does owe Lodi \$3.2 million and if the City were able to recover the money, it could likely recommend further rate cuts.

In answer to Council Member Howard, Mayor Pennino stated that he no longer has a conflict of interest on electric issues as a PG&E employee because deregulation has ended. In addition, he has a ruling from the Fair Political Practices Commission, which states that he can participate in rate discussions.

Council Member Nakanishi indicated that he would like to make a motion that Council reconsider the \$900,000 in-lieu transfer.

Following confirmation from the City Attorney, Mayor Pennino stated that an item to reconsider the matter can be placed on a future agenda if requested. Council Member Nakanishi asked that it be done.

In reply to Mayor Pro Tempore Hitchcock, Mr. Vallow explained that the Purchase Power Cost Adjustment (PPCA) is similar to the MCA, although it has an automatic feature. He stated that the Utility is not using it.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

#### MOTION:

Council Member Land made a motion, Howard second, to introduce Ordinance No. 1718 approving the revision to the electric rate changes for all classes excluding Residential SHARE Program and Residential Medical Rider due to CAISO charges, to become effective December 6, 2002.

## **DISCUSSION:**

Mayor Pennino gave direction to staff to bring back the in-lieu transfer matter for reconsideration, as was previously requested by Council Member Nakanishi. In addition, he asked that the policy issue on the in-lieu transfer amount to the general fund be brought to Council for consideration.

Mayor Pro Tempore Hitchcock expressed opposition to the motion, as she preferred that the matter be postponed to allow staff an opportunity to bring back a revised rate structure based on a decrease in the in-lieu transfer to the general fund as has been discussed.

City Manager Flynn warned that if Council does not approve this item it will negatively affect the City's presentation to the rating agencies tomorrow, the result of which could be increased costs that will, in turn, drive rates up.

Mr. Vallow added that should the Council decide to decrease the in-lieu transfer, it would be reflected through lowering of the MCA, not the base rates.

Council Member Land urged Ms. Hitchcock to vote in favor of the motion for the reason expressed by Mr. Flynn.

City Attorney Hays reminded Council that at a past meeting it authorized staff to make arrangements to buyout the Calpine agreement, which presents an opportunity for the City to save \$2 million. The item now under consideration addresses the City's costs and recognizes the reduction that will be accomplished through the Calpine transaction. In order to complete that transaction it is necessary to do the financing that has been discussed this evening. If the City does not move forward to accomplish the financing as planned, the end result would be that a rate increase of greater magnitude would need to be put in place to meet the costs under the current Calpine agreement.

Mayor Pro Tempore Hitchcock expressed displeasure that a month ago during a presentation by Electric Utility Director Vallow, Council voiced concern about the in-lieu transfer to the general fund, and now one day before the transaction is to take place Council is not presented with options.

Council Member Howard expressed support for the motion. She believed that the base rate increase was justified. When Council originally considered an electric rate increase she agreed with staff's recommendation that businesses would not be charged first. As costs are becoming more expensive, it is important that rate payers participate fairly and equally, which she believed this rate increase proposal accomplishes.

## VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Howard, Land, and Mayor Pennino

Noes: Council Members - Hitchcock and Nakanishi

Absent: Council Members - None

#### H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi - None

H-2 The following reports were presented to the City Council:

- a) Planning Commission report of August 14, 2002
- b) Planning Commission report of September 12, 2002
- c) Planning Commission report of September 25, 2002

- H-3 Appointments None
- H-4 Miscellaneous
  - a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through September 30, 2002.

# I. REGULAR CALENDAR

I-1 "Approve plans and specifications and authorize advertisement for bids for the new Animal Services Facility, 500 South Guild Avenue"

City Manager Flynn explained that this project has been brought forward because it is at a point where it can go to bid and it is within the funding limits that have been set aside. The City does not currently have \$11 million for DeBenedetti Park, \$9 million for the indoor sports center, nor enough money to fully fund the aquatics facility. Study on renovations to the old public safety building have just begun. He outlined the following funding issues:

- > The City has received \$12 million in Certificates of Participation.
- \$4 million was received from the State toward the new police building.
- > \$4.5 million has been set aside.
- General facility impact fees total \$1.1 million, of which \$300,000 is available for the proposed projects.
- The public safety building is \$13 million, and \$3.9 million has been set aside for design.

Public Works Director Prima recalled that in June, Council approved the concept level plans for the new animal shelter. Under consideration at this time is a request for authorization to complete the plan and go out to bid. The plan presented this evening is identical to what Council viewed in June, with the minor addition of a janitor's closet.

Mayor Pennino noted that Council has received phone calls from various veterinarians in the community who would like to view the drawings.

Mr. Prima replied that the plans have been available for viewing since last June, and development of the project had been ongoing for one year prior to that.

## **PUBLIC COMMENTS:**

 Tony Alegre, representing the Boosters of Boys and Girls Sports, stated that if future funding is uncertain, Council should remove this item from its agenda and prioritize all the proposed projects.

Mayor Pennino noted that delays are due in part to the fact that land has not yet been annexed or purchased for the aquatics facility, nor has all the land been acquired that is needed for the indoor sports center.

Mr. Flynn pointed out that included in funding considerations is whether or not to continue to set aside \$1.5 million for financing given the future economic uncertainty. If a measure to raise taxes to finance recreation projects is to be considered, it is important to have conceptual designs of the projects completed for marketing purposes. He noted that in addition to the proposed recreation projects is remodeling of the old public safety building, the fire house, and the civic center parking structure.

Mayor Pennino stated that the City's general fund will be reviewed at the next regular meeting.

John Johnson, representing the Lodi Sports Foundation, commented that he sent an
e-mail message to Council on this topic (filed). He likened this situation to a horse
race, i.e. whichever project that was ready to go to Council first got funded. He
recalled that DeBenedetti Park was supposed to be done in 1990, the indoor sports
center in 1994, and Swimming Pool Task Force was appointed in 2000. He stated
that when Council originally prioritized projects the indoor sports center was on the list

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and the animal shelter was not, and it was later reversed when the list was revised. Mr. Johnson recommended two options: 1) Table this item and prioritize all the proposed projects; or 2) Take the \$4 million that would be used for the new animal shelter, stop design on the indoor sports center, scale back the DeBenedetti Park design so that it is just a drainage basin, and build the aquatics facility with the resultant \$5 million. He noted that the Lodi Sports Foundation recommends option one.

Mr. Johnson believed that if Council spends \$4 million on the new animal shelter, that none of the other recreational projects would be completed. He pointed out that if Council is considering a tax measure to fund the proposed projects, it would be advantageous to include the animal shelter in the group of projects so that a larger community base would vote in favor of it.

Mayor Pro Tempore Hitchcock recalled that 15 years ago the animal shelter expansion was listed on the impact fee report. She noted that a Council meeting had been scheduled previously with the intent of prioritizing the proposed projects, but it was decided not to do it, which she believed to be a mistake.

- Kathy Harring introduced herself as a volunteer of Animal Friends Connection (AFC). She believed the public would be willing to subsidize recreation facilities, but they would not contribute toward the welfare of homeless animals. She urged Council to vote in favor of this item, as she felt that most animal shelters are "houses of death." She quoted, "the morality of a community can be judged on how it treats is most defenseless members."
- John Griffin supported the City constructing a functional animal shelter; however, he
  believed what was being recommended was extravagant, particularly when
  considering the current economic conditions. He suggested that the project be
  scaled back and use remaining funds for youth recreation facilities. He asked Council
  if the proposed projects will be funded and built within the next two to four years.

Mayor Pennino replied that Council is supportive of the proposed projects and is moving forward with them. He warned Mr. Griffin about suggesting that the project be scaled back, as the same argument could be made for all of the projects.

- Bob Johnson, Chairman of the Parks and Recreation Commission, stated that he has toured the current animal shelter and agrees that it needs help. In reference to Ms. Hitchcock's comment about the previous Council meeting that had been scheduled for the purpose of prioritizing projects, he noted that at that meeting the Mayor presented a spreadsheet he had created, and during discussion he stated that all the projects could be paid for out of the general fund over the next several years. Contrary to that statement, at yesterday's Shirtsleeve Session the City Manager expressed concern about the City's revenues. In addition, it appears that other projects are now being discussed that will likely push the recreation projects "off the chart," e.g. remodeling the old public safety building, the fire station, and civic center parking structure. He believed it would be prudent for Council to put everything on hold until the financing direction is determined. He reported that a premier builder in the community had informed him that a nice custom home could be built for \$110 a square foot. He asked why the animal shelter facility costs twice that amount.
- Jane Neilson stated that she represents a German shepherd rescue group. Since the summer of 2002 the group has found homes for 80 dogs from the shelter. She urged Council to approve this item, as the current shelter is much too small.
- Sue Pixler recalled that at the special Council meeting on June 4, which was scheduled to prioritize projects it was pointed out by Mr. Prima and Mr. Flynn that staff cannot handle supervising all the major capital projects at the same time. In addition, the School District is currently involved in several construction projects, and the

community does not have enough local contractors to accommodate all the projects at once, the end result of which would be higher costs. She objected to the competition that has surfaced between the recreation projects and the animal shelter. She emphasized that the animal shelter is a public safety function mandated under State law. In response to Mr. B. Johnson's inquiry about square footage cost differences she explained that public construction projects have substantially different code requirements to adhere to than do private home constructions.

Council Member Nakanishi stated that he has always supported the animal shelter project; however, he had been under the impression that there was consensus from the stakeholders. During the past two days he has received phone calls from local veterinarians who believe the design of the shelter is excessive.

Ms. Pixler reported that the Animal Shelter Task Force held well over 30 meetings over the past two years, all of which were open and noticed under the Brown Act regulations. One year ago all the local veterinarians were invited to a meeting, at which the new animal shelter concept plans and services were discussed. She was surprised to hear there was concern now, because at the meeting it was agreed to go forward with the plan as presented. She believed fear of competition is unfounded, as the shelter treatment room was designed to handle only shelter animals.

• Barbara Steinheimer introduced herself as a member of the Animal Shelter Task Force and AFC. Goals of the AFC include: 1) finding homes for homeless dogs and cats in San Joaquin County; 2) educating the community; and 3) to get as many animals spayed and neutered as possible. She explained that AFC has a partnership with the Lodi Animal Shelter. The Maddies Fund grant can only be spent toward costs of adopting, spaying, and neutering animals. Much of the money goes toward people hired to run the program. AFC does not have funds to contribute toward the construction of the animal shelter.

Council Member Howard questioned whether AFC is considering building its own shelter facility. She expressed concern about the potential of having two animal services structures in the same community. She asked whether it would be feasible for AFC to work out of the new animal shelter and pool its resources, skills, and staffing services, since its goals are very similar to the shelter's.

Ms. Steinheimer reported that AFC has approximately \$31,000 in a building fund, and confirmed that they would never be in competition with Lodi Animal Shelter. She believed it would be feasible for AFC to operate out of the new animal shelter facility. She urged Council to vote in favor of this item.

 Dr. Beth Klapstein, President of the Northern San Joaquin Veterinary Medical Association, read a letter from California Veterinary Medical Association President Dick Schumacher into the record:

"Over the past few years there has been a wonderful collaboration taking place in your community between the local veterinarians, animal care givers, and representatives from Maddies fund. This cooperative effort has been applauded and is recognized on a national level as well as throughout the entire state of California. Your community is one that is looked upon as a highly successful model of how the veterinarians and local animal care givers can work together in order to accomplish the goal to reduce the pet overpopulation program. The main attribute of this type of program is the effective utilization of the current veterinarian delivery system. When veterinarians and animal shelters work together to provide the veterinary care for their community and the shelter animals, it helps reduce the public funds that are necessary to build and develop publicly owned veterinary hospitals. This in turn promotes the spirit of cooperation as opposed to competition and will ultimately benefit the animals in the community."

Dr. Klapstein stated that everyone agrees that the new animal shelter needs a medical treatment area and that all shelter animals need to be spayed or neutered before, or soon after, being adopted. The concern that has been raised is whether there is a need for a surgical suite dedicated to shelter animals when there are so many facilities already available in the community. She stated that when performing spay or neuter surgery on an animal, other issues can arise such as hernias or growth of dew claws, which can be surgically addresses at the same time. If done at the shelter, a decision would have to be made to either perform the surgical correction or opt to have the animal undergo another surgical procedure at a later time, which presents a dilemma.

Mayor Pennino suggested that if Council approves this item, that recommendations on policies be developed through a collaborative effort of interested parties and staff. Should changes be necessary, a change order for the surgery room could be brought forward at a later time. He stated that it is Council's desire not to compete with the private sector veterinary community.

Dr. Klapstein indicated that the veterinary community would also like to work with the Task Force on the design of entire facility and the ability to staff it.

Council Member Land questioned whether the euthanasia holding room, euthanasia room, and euthanasia garden were all really necessary. In reference to the extent of the surgery and adjacent rooms, he commented that he was not in favor of government being in competition with local businesses.

In answer to Mayor Pro Tempore Hitchcock, Dr. Klapstein explained that the Animal Shelter currently works with local veterinarians and transports animals needing treatment to their facilities. She warned that it would be very expensive to have an equipped surgical facility and not fully utilize it.

Dr. Richard Turner stated that there were a lot of concerns raised at the meeting last November between the Task Force and local veterinarians, which have never been addressed. He felt it would have been appropriate for the Task Force to have called the ten local veterinarians to invite them to subsequent meetings to review the Shelter plans and discuss services. He acknowledged the competent staff at the Animal Shelter and believed it to be one of the best operated facilities in the state. Dr. Turner read a portion of a memorandum (filed) signed by nine local veterinarians into the record:

"The Lodi veterinary community feels we have had inadequate time to respond to the final form of the blueprints for the new animal control facility. Everyone agrees we need a new facility, but we feel we can help to improve the efficiency of the plan, address concerns of the veterinary community, and help reduce the expenditures of the project."

Dr. Turner reported that a colleague in Manteca had a private veterinary hospital constructed for \$140 per square foot, which is considerably less than the new animal shelter square foot cost. He stated that local veterinarians are willing to donate their time to work with the Task Force in refining the animal shelter plan. He expressed concern that if the Council approves the \$4 million plan as proposed tonight, no further consideration will be made to decrease the size, scope, or cost of the project.

 Donna Swinney strongly encouraged Council to vote in favor of this item, as a great deal of effort went into the project and it is important to consider long-term planning so that the Animal Shelter will meet the needs of the community for many years to come. Dr. Elaine Dornton stated that she is a veterinarian from the Lodi Veterinary Hospital and also serves on the Animal Shelter Task Force. She reported that until this morning she had not received a single phone call from a veterinarian during the two years that the Task Force was working on this project. She had sent notification to local veterinarians letting them know she was serving on the Task Force and welcomed questions and had also informed them that there were plans to have a room in the shelter designated for veterinary medical care. It was her opinion at the meeting last year with the veterinarians that they were satisfied with the plan as presented. She reported that the City currently pays \$750 a month to have animals spayed and neutered. Only two veterinary clinics perform those services for the City, so they would be the only ones who could potentially lose business by the shelter performing the surgeries on site. She stated that veterinary input in the design of the facility was contributed by herself, Dr. Rich Bockman, Janet Foley with University of California, Davis, and Dr. Harris. In answer to questions regarding the necessity for the euthanasia holding area and room, she stated that before the animal shelter staff were trained, it was a task she performed and it often resulted in piles of dead dogs waist high. She urged Council to approve the animal shelter plans, as she believed that any subsequent changes would not affect the overall concept of the design.

In response to Mayor Pro Tempore Hitchcock, Dr. Dornton reported the State mandates that prompt veterinary care be available to shelters, but they do no require that they have a surgical facility on site. Ideally, the Animal Shelter would contract with local veterinarians to provide services at the facility on certain days of the week. She confirmed that there were no plans to have a veterinary clinic that would service the public for spaying and neutering animals.

Council Member Nakanishi preferred that the matter be tabled to the next regularly scheduled City Council meeting, to allow adequate time for the veterinarians to fully review the new animal shelter plans and discuss their concerns with the Task Force.

Dr. Dornton countered that the removal of one room from the shelter plan would not provide a significant cost savings to the overall project. She stated that the Task Force studied every shelter from San Francisco to Lake Tahoe looking for the best ideas and the plan presented is the least costly of any one of comparable size in the area.

Mr. Prima confirmed that the architect and others spent a great deal of time looking at other shelters before deciding on the proposed plan. In answer to questions related to square footage cost, he explained that designing public facilities to last 30 years or more cannot be compared to designing a private commercial facility.

 Gary Wiman, Construction Project Manager, explained that the animal shelter has been designed for future growth and it would have been irresponsible to do otherwise.
 At this time there is no equipment or staff included for the surgery room.

Council Member Howard believed that the project could be improved by allowing veterinarian input. Appropriate modifications could then be made and the plan brought back to Council in December, which would still allow the project to go out to bid in January as planned.

• Dr. Lisa Stoops, owner of the Animal Hospital, believed that major changes need to be made to the plans. She equated the current concept as a "Taj Mahal." Operating, staffing, and cleaning a 19,857 square foot facility will be very expensive and disease control would be made difficult. She stated that the City pays only \$750 per month to spay and neuter animals because of its high euthanasia rate. If that practice is discontinued the amount of surgeries and cost to spay and neuter animals will increase substantially. Staff that is trained to provide treatment to the animals and perform surgeries would need to be hired.

In answer to questions posed by Council Member Land, Dr. Stoops stated that she had attended the meeting with the veterinarians and Task Force. Concerns were raised about the surgery area; however, there was no resolution reached at that meeting. She had learned about the first meeting by being called and had assumed she would be contacted similarly for future meetings.

Terri Arbuckle, Animal Services Officer, commented that she wished the veterinarians would have expressed their concerns earlier. She reported that the Task Force has worked very hard, done hours of research, conducted numerous meetings, and followed Brown Act notification requirements. She explained that non-profit groups such as AFC cannot pick up stray animals. The State requires that stray animals remain at an animal shelter for six days before they are allowed to be taken out or adopted. In reference to questions about the design of the euthanasia room and surrounding areas, Officer Arbuckle explained that the process of euthanizing animals is very stressful and emotional for staff. Over 1,000 animals were euthanized last year. She stated that 49 cats had to be euthanized in one day for population control and in these situations, an adequate amount of space is needed. The euthanasia garden area was designed so that animal shelter staff would have a window to look out of when performing this task. She reported that the cost to the taxpayers for animal euthanasia in the year 2000 was \$57,000. Locker rooms were added to the shelter design so that animal control officers would be able to change clothes after picking up decomposing animals. She emphasized that the current facility is greatly inadequate and was not built to allow for the many State mandates that now exist.

Council Member Land expressed his disappointment that the veterinary community did not stay involved throughout the development of the plan.

- Police Chief Adams asked Council to trust the Task Force that it appointed. They
  worked diligently on the plan and followed all procedures as requested. On June 19
  the Council voted in favor of proceeding with the design as presented. The only
  difference since that time was the addition of a small janitor's closet. He urged
  Council to approve the plans, and promised that he would work with the veterinarians
  and Task Force on issues of concern to reach as much consensus as possible.
- Linda Hansen, Animal Shelter Task Force member, noted that she lives across the street from Dr. Turner so she found it quite surprising that he had not communicated his concerns earlier. She was shocked that veterinarians were only now coming forward when the Task Force had held regular meetings for the past two years and was insulted that the Council would consider revisiting the entire design of the shelter. The Council appointed Task Force made educated and informed decisions. They toured shelters all over northern California. Recently Ms. Arbuckle and architect George Miers went to southern California to look at specific heating and ventilation requirements that a shelter had. The animal shelter plan as submitted is a design with integrity that will accommodate the needs of staff and volunteers for many years in the future. She felt that the only issue that should be open to debate at this time is the medical room and the Task Force invites input from veterinarians on policies and how it should be staffed. In answer to Council Member Nakanishi's inquiry questioning the need for urgency, Ms. Hansen replied that animals are dying. There is an urgent need to move the project forward to make room for animals so that it is not necessary to keep killing.
- Parks and Recreation Director Baltz encouraged Council to consider the short- and long-term impacts that approving this item may have on the recreation projects. Over the past year and half expectations of the recreation community have been raised and a great deal of work has gone into the design work.

#### MOTION:

Council Member Land made a motion, Hitchcock second, to approve the plans and specifications for the new Animal Services Facility, 500 South Guild Avenue, and authorized advertisement for bids.

#### DISCUSSION:

Mayor Pro Tempore Hitchcock stated that she would like to see as much money as possible from development impact fees put toward the animal shelter so that funds will still be available for DeBenedetti Park. She noted that she still has not received an answer on what has happened to all the development impact fees, or seen an accounting as she had requested.

Council Member Howard believed that with further communication and input from the veterinary community, information regarding operational costs, plans for hiring additional staff, and a five-year projection – an improved plan could be finalized in a short amount of time and still have the project ready to go out to bid in January. She emphasized that she was not against the animal shelter; however, the motion does not support the opportunity to produce modifications based on discussions that have taken place this evening.

Mayor Pennino recalled that in June he tried to get the Council to agree to downsize the project and attempt to get public funding for the project, but he was not successful in doing so. Policies need to be developed for the animal shelter services, particularly as they relate to the surgery room. He expressed support and commitment for the recreation projects and stated that he would work hard to get funding for them.

Council Member Nakanishi stated that he was in favor of the animal shelter; however, with a \$3.9 million project it is important to consider both sides. He explained that he would be voting no because he needs more information.

#### VOTE:

The above motion carried by the following vote:

Ayes: Council Members - Hitchcock, Land, and Mayor Pennino

Noes: Council Members - Howard and Nakanishi

Absent: Council Members - None

# VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Land, Howard second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

# I. REGULAR CALENDAR (Continued)

I-2 "Adopt resolution authorizing work to begin to convert the manual winch system in the Hutchins Street Square (HSS) Performing Arts Theater to an electrical system (to be paid for by the HSS Foundation) and approve the HSS Foundation's request that this contribution be considered half of the \$150,000 fiscal year 2003-04 regular donation"

Dennis Bennett explained that converting from a manual winch to electric system would allow for more performances at the Hutchins Street Square (HSS) Performing Arts Theater. The HSS Foundation has made the following cash contributions toward debt reduction for the bonds that were sold:

- 1997-98 \$150,000
- ➤ 1998-99 \$150,000
- > 1999-00 \$300,000
- ≥ 2000-01 \$150,000
- > 2001-02 \$150,000

Mr. Bennett stated that in addition, the Foundation has contributed toward the following capital improvements: \$7,024 for musicians' busts; \$12,892 for the new reader board; and

\$37,634 for the chandelier in the rotunda. Bids to replace the manual winches with electric, range from approximately \$85,000 to \$125,000. He requested that the City reduce the \$150,000 cash contribution by \$75,000 so that the money could be utilized to purchase the electric winches. Mr. Bennett noted that it had intended to make the request for 2002-03; however, he agreed to 2003-04 as stated on the agenda and staff report.

Kevin Cruz, Technician Manager, reported that electric winches will provide labor savings, faster turnaround of events, and will enhance the ability to handle a broader scope of productions. It is proposed to remove 8 of 14 line sets and replace with them with a motorized winch system.

Community Center Director Lange reported that HSS had Chicago booked for an event, but were unable to meet its requirements to fly sets because of the current hand crank winches.

Council Member Howard noted that this request should be budgeted for as part of a capital or operating expense. While the \$150,000 a year that the Foundation gives is helpful toward paying off the debt, the City annually pays a principal payment of between \$310,000 to \$605,000, and in addition the City pays \$480,000 annually toward HSS. She commented that other requests that were made mid-cycle for the budget were not brought before Council, so it was interesting that this one had.

#### MOTION:

Council Member Land made a motion, Nakanishi second, to adopt Resolution No. 2002-209 authorizing the work to begin to convert the manual winch system in the HSS Performing Arts Theater to an electrical system (to be paid for by the HSS Foundation) and approved the HSS Foundation's request that this contribution be considered half of the \$150,000 fiscal year 2003-04 regulation donation.

#### DISCUSSION:

Mayor Pro Tempore Hitchcock agreed with Ms. Howard comments; however, she believed it to be worthy of an exception to maximize the resources available to the newly hired Technician Manager.

## VOTE:

The motion carried by the following vote:

Ayes: Council Members - Hitchcock, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Howard Absent: Council Members – None

- I-3 "Adopt resolution approving new classification and salary range for Assistant City Manager" was *pulled from the agenda*.
- E-9 "Adopt resolution awarding the contract for installation of streetlights on Streetlight Completion Project Phase III to Clayborn Contracting Group, Inc. (\$662,259)"

At the request of Mayor Pro Tempore Hitchcock, Electric Utility Engineering and Operations Manager Hans Hansen reviewed the map as presented in the staff report noting that the area surrounds California Street north of the railroad track to Turner Road and an area south of Lockeford Street towards Oak Street, stretching from Hutchins to Sunset Avenue.

John Simler, Electrical Estimator, added that the lower portion is on Pine Street. The entire area will be lit once this phase is complete.

Mr. Hansen reported that this project will have 450 lights and should be completed in six months. Residents will be notified before the work begins.

Council Member Nakanishi stated that City Manager Flynn and Electric Utility Director Vallow have done an excellent job for the Utility. The \$662,000 from the Electric Utility for street lights is not paid by tax dollars.

## MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously adopted Resolution No. 2002-210 awarding the contract for installation of streetlights on Streetlight Completion Project Phase III to the low bidder, Clayborn Contracting Group, Inc., of Auburn, CA, in the amount of \$662,259.

E-21 "Adopt resolution providing financial support for San Joaquin County's Recycling Market Development Zone (\$1,533 per year)"

Council Member Land stated that based on the report this appears to be a request for a donation to the Stockton Chamber of Commerce to promote the Stockton area. He asked where Lodi has benefited from the Recycling Market Development Zone in the past.

Public Works Director Prima replied that he had been ensured an effort would be made to work with Lodi businesses. He suggested that the item be delayed until a presentation can be made at a future meeting.

## MOTION / VOTE:

The City Council, on motion of Council Member Nakanishi, Land second, unanimously tabled the matter regarding the financial support for San Joaquin County's Recycling Market Development Zone.

E-22 "Adopt resolution authorizing additional City participation in the cost of the Harney Lane Lift Station Project, and further appropriating funds for the project; and adopt resolution certifying the Negative Declaration as adequate environmental documentation for the Harney Lane Lift Station Project"

Mayor Pro Tempore Hitchcock noted that this request appears to be a departure from the City's standard development agreement.

Public Works Director Prima replied that sanitary sewer lift stations have been handled in a variety of ways in the past.

Wally Sandelin, City Engineer, reported that the lift station project was originally envisioned in the 1991 impact fee program. At that time the source of funding was not specified. It may have been anticipated through inter-fund borrowing that the City would had enough cash available to build it and that fees would be collected; that no longer appears to be the case. In 1996 the Council chose to modify the services for that lift station, and bring in the area generally south of Harney Lane. Those areas were apportioned a cost share of the lift station. Under current activity that is occurring, staff anticipates that Century Meadows 1 will be the first project. It would carry the burden for all of the properties north of Harney Lane. The properties south of Harney Lane have paid their share of the construction costs of the lift station. Staff is requesting that Council consider City participation in a proportionate share of the cost of the lift station for properties generally to the west of the Luckey Annexation on the premise that those are fractured parcels not likely to develop for 10 to 15 years. Normally the life of the reimbursement agreement that would be entered into with the developer that builds a major City facility is 15 years. Staff thought this would be one way to dilute the cost obligation imposed on one project when soon to follow would be Century Meadows 2, 3, the Luckey annexation, and the Lackyard and Nepote annexations. Staff determined there was rationale for the City to take on \$393,000 of the project understanding that the City in the past actions had already appropriated \$27,000 for design and \$120,000 for reimbursement for facilities already constructed by the Century Meadows 3 developer. Those were improvements not associated with the lift station improvements, but they had

to go in by virtue of their location on Mills Avenue. Alternative two would limit the City participation to the current funds allocated of \$165,000. Alternative three would impose the entire cost of the lift station on the Century Meadow 1 developer. Staff recommends alternative one on the premise of its fairness to the developers involved in these relatively small residential projects.

Mayor Pro Tempore Hitchcock opposed the recommendation because of the precedence it sets. She did not believe the City had the money and did not want to borrow it from another account, as it may delay another project.

Mr. Sandelin replied that he modeled the recommendation off what was done on the Tienda/Kettleman Lane lift station, where the City funded the project and waited for reimbursement. He acknowledged, however, that the term of the reimbursement period in this case is much further out.

## **PUBLIC COMMENTS:**

David Williams stated that he is working with Dr. Kesler on Century Meadows 1. The
first phase is for 57 lots and he felt that the project was not large enough to pay for
the lift station alone.

## MOTION #1 / VOTE:

The City Council, on motion of Council Member Howard, Hitchcock second, unanimously adopted Resolution No. 2002-211 certifying the Negative Declaration as adequate environmental documentation for the Harney Lane Lift Station Project.

In reply to Mayor Pennino, Mr. Sandelin stated that there could be a fourth alternative that would spread the \$620,000 burden more evenly across Century Meadows 1, 2, and 3, which are all prepared to begin construction.

Mr. Prima suggested that if Council is not comfortable approving the recommendation, that the matter be sent back to staff for more work.

#### MOTION #2:

Mayor Pro Tempore Hitchcock made a motion, Howard second, to *deny* the request to authorize additional City participation over and above the actual City's general cost of the Harney Lane Lift Station Project.

#### DISCUSSION:

Council Member Nakanishi stated that he preferred to table the item, rather than deny it.

#### VOTE:

The above motion carried by the following vote:

Ayes: Council Members - Hitchcock, Howard, Land, and Mayor Pennino

Noes: Council Members – Nakanishi Absent: Council Members – None

## J. ORDINANCES - None

## K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

 Council Member Howard asked that the loan request from Lodi Adopt-A-Child be brought before Council for consideration. She noted that Council received a letter from Hughson Ambulance Service requesting that the City use a request for proposal (RFP) process for paramedic training, rather than having an exclusive arrangement with American Medical Response.

City Attorney Hays confirmed that Zone 4 is not an exclusive area and he has advised the City Manager and Fire Chief that the appropriate action would be to move forward with an RFP.

Council Member Howard also made the following comments:

- > She wished to ensure that the City moved forward with establishing the Emergency Medical Services Coordinator position.
- > She thanked representatives of Electric Utility for Public Power Week, and in particular Mel Grandi and the many lineman that were present.
- > She enjoyed the pumpkin festival at Phillips Farms.
- > A ribbon cutting recently took place for the Twin Arbor Athletic Club's new Kids Club that is staffed by MaryAnn Porterfield.
- Council Member Nakanishi stated that he looked forward to attending the Mayor's State of the City Address this Friday.
- Mayor Pro Tempore Hitchcock also requested that Lodi Adopt-A-Child's loan request be brought forward to Council, as well as the requests from the Salvation Army and the Downtown Lodi Business Partnership. She requested to be informed of the balance of the City's contingency fund. She thanked Electric Utility for coordinating Public Power Week. She reported that Susan Newman, the Assistant Secretary from the United States Department of Education would be visiting Clairmont Elementary School, as well as a school in the Stockton Unified School District, and will be speaking at the University of the Pacific on October 24.
- Mayor Pennino looked forward to the State of the City Address and congratulated Ms. Hitchcock for being elected President of the League of California Cities Central Valley Division.

## L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced the following birthdays:
  - > Jackie Taylor October 22
  - Janet Hamilton October 31
  - Cynthia Haynes September 5

In addition, he reported that the skate park would be having a special Halloween event sponsored by a church and there would be live music between 6:00 to 8:00 p.m.

Council Member Howard reported that representatives from Bethel Church will be notifying surrounding residents about the event.

## M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:04 a.m., Thursday, October 17, 2002.

ATTEST:

Susan J. Blackston City Clerk